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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,171

10/05/2005

Matthias Fischer

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6526

23363 7590 04/02/2008
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EXAMINER

ABRAHAM, TANIA

ART UNIT

PAPER NUMBER

3636

MAIL DATE

DELIVERY MODE

04/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Allowable Subject Matter

1. Upon further consideration, the indicated allowability of claim 8 is withdrawn. A rejection based on Smuk (6,336,679) follows. Claims 23, 26-28, 32 and 35 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Drawings

2. The drawings are objected to because while Figures 1A-1C show element 11 fixed to support T, Figures 2 and 3 do not show this connection and consequently seems to indicate the element 11 as not fixed to support T but moving with backrest R. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: in order to maintain consistency within the claim, this claim should recite --coupling member-- in line 11 instead of "coupling element". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-22, 24, 25, 30-31, 33 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Smuk ('679). Smuk shows a motor vehicle seat comprising: a backrest 40 that is foldable forwards through swivel action from at least one useful position; an upholstery carrier 33 to hold a seat cushion 30; and a coupling member 43 (fig. 9) through which the backrest 40 is coupled to the upholstery carrier 33 so that the upholstery carrier is displaced when the backrest is folded forwards (fig. 8); wherein the coupling member is connected to an elastic element 106 supported on the backrest, so

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that when the backrest is swiveled from a useful position in a first swivel area the elastic element is slightly deformed before the coupling member acts on the upholstery carrier [the spring would have at least a certain amount of deformation before the cable acts to swivel the seat] in at least a further swivel area due to the elastic element 106 being connected to the backrest 40 at one end via the pivotal attachment of the mounting eye 116 on the mounting stud 118, and to the upholstery carrier 33 at an other end via bracket 114 (col. 11: 11-17).

Concerning claim 2, the coupling member is longitudinally extended and the elastic element engages on one end of the coupling member via mounting eye 116. Regarding claims 3-5 and 9, the coupling member is a flexible traction cable 43, wherein the coupling member is guided at least in some sections in a Bowden cable 38, and wherein the traction member 43 is tightened as the backrest is folded forwards whereby the elastic element 106 is deformed at first.

As to claims 6-8 and 24, the coupling member 43 is connected to the backrest through the elastic element 106, the elastic element is supported on the backrest through a support element 116 mounted rotatable on the backrest 40 via interlock plate member 100, wherein the elastic element is connected at one end of the elastic element to the coupling member 43 via bracket 114 and is supported by an other end on the backrest, and wherein the support element 116 has a through opening for the coupling member 43. For claims 11-13, the elastic element is a coil spring 106 which encloses an end section of the coupling member, wherein the coupling member engages by one end on the backrest 40 and by the other end on the upholstery carrier 33, and wherein

the coupling member engages on the upholstery carrier in a front end region in a seat longitudinal direction.

Regarding claims 14-18, a locking mechanism 34 is provided with which the upholstery carrier is lockable so that the upholstery carrier is not directly shiftable under the action of the coupling member 43; wherein the locking mechanism is pretensioned towards the locked state and is unlockable through action of the backrest on the coupling member 43, wherein the locking mechanism 34 is releasable after a predetermined deformation of the elastic element 106 through further action of the backrest on the coupling member (fig. 7), and wherein the locking mechanism is releasable through a structural assembly which is in active connection with the coupling member 43 comprising the elements designated 130, 126, 128, and 58. Regarding claims 19-22, the Bowden cable 38b is connected to an unlocking element 126 which is provided to unlock the locking mechanism 34, wherein the cable is supported on a rotatably mounted support element 130 of the unlocking element.

Regarding claim 25, the upholstery carrier 33 is connectable through a swivel lever 52 to a structural assembly 28 fixed on a floor of the motor vehicle. For claims 30-31, the backrest 40 is mounted for swivel movement about an axis "Z", wherein the swivel axis is designed as a locally fixed axis. As to claim 36, the upholstery carrier 33 is moved in a seat longitudinal direction when the backrest is folded forwards (fig. 8). Regarding claim 33, the backrest is assigned an adjusting device 96a by which the backrest is settable in various different useful positions through swivel movement.

Response to Arguments

6. Applicants' submit that Smuk ('679) does not show or suggest an elastic element that deforms before the coupling member acts on the upholstery carrier; however, upon further consideration it is believed the Smuk's lower leg 104 assembly would have a first slight deformation occurring before the coupling member is activated because of the elastic element's connection to fixed bracket 114, as set forth in the rejection above.
7. Applicant's arguments with respect to the Smuk patent ('533) have been considered but are moot in view of the new ground(s) of rejection.
8. Applicant's arguments with respect to the Taubmann et al patent have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

9. Claims 29 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. A./
Examiner, Art Unit 3636
March 31, 2008

/David Dunn/
Supervisory Patent Examiner, Art Unit 3636

Office Action Summary	Application No. 10/552,171	Applicant(s) FISCHER ET AL.	
	Examiner Tania Abraham	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24, 25, 30, 31, 33 and 36 is/are rejected.
- 7) ☒ Claim(s) 23, 26-29, 32, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.


Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

<i>Index of Claims</i> 	Application/Control No. 10552171	Applicant(s)/Patent Under Reexamination FISCHER ET AL.
	Examiner Abraham, Tania	Art Unit 3636

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant				<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47	
CLAIM		DATE							
Final	Original	09/14/2007	03/31/2008						
	1	✓	✓						
	2	✓	✓						
	3	✓	✓						
	4	✓	✓						
	5	✓	✓						
	6	✓	✓						
	7	✓	✓						
	8	✓	✓						
	9	✓	✓						
	10	✓	✓						
	11	✓	✓						
	12	✓	✓						
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	14	✓	✓						
	15	✓	✓						
	16	✓	✓						
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	25	✓	✓						
	26	✓	O						
	27	O	O						
	28	O	O						
	29	✓	O						
	30	✓	✓						
	31	✓	✓						
	32	O	O						
	33	✓	✓						
	34	✓	O						
	35	✓	O						
	36	✓	✓						

<p><i>Index of Claims</i></p> 	<p>Application/Control No.</p> <p>10552171</p>	<p>Applicant(s)/Patent Under Reexamination</p> <p>FISCHER ET AL.</p>
	<p>Examiner</p> <p>Abraham, Tania</p>	<p>Art Unit</p> <p>3636</p>

✓	Rejected
=	Allowed

-	Cancelled
÷	Restricted

N	Non-Elected
I	Interference

A	Appeal
O	Objected